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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LAYNE KELANI BISHOP,

Defendant and Appellant.

A155686

(Solano County
Super. Ct. No. FCR325819)

Layne Kelani Bishop appealed from a judgment entered after he pleaded no contest to second degree commercial burglary (Pen. Code, § 459). His appellate attorney has asked the court for an independent review of the record under *People v. Wende* (1979) 25 Cal.3d 436. We conclude that because Bishop waived his right to appeal under the plea agreement, the appeal must be dismissed.

Bishop was charged by amended information with one count of second degree commercial burglary in connection with entering a mobile telephone store in Dixon in November 2016 and taking a steel safe from the store.

In January 2018, Bishop entered an open plea of no contest to the charge with an indicated sentence of two years. In his written plea agreement, Bishop initialed a line next to the following statement: “Even though I will be convicted in this case as a result of my plea, I have the right to appeal the judgment and rulings of the court (e.g.: Penal Code Section 1538.5(m) [preserving right to challenge search or seizure on appeal despite guilty plea]). [¶] **I give up my right of appeal.**” The trial court confirmed with

Bishop that he understood each of the rights he waived and that he understood all the direct consequences of his plea.

The trial court sentenced Bishop to the low term of 16 months in county jail, to be served concurrently with a sentence he was already serving for a conviction in San Mateo County. The court explained to Bishop that he was not entitled to custody credits for the approximately 30 days he already had served for his separate conviction in a different county. (*People v. Bruner* (1995) 9 Cal.4th 1178, 1193-1194 [where presentence custody stems from multiple, unrelated incidents of misconduct, custody may not be credited against term of incarceration if prisoner has not shown conduct underlying term to be credited was also a “but for” cause of earlier restraint].) Bishop filed a motion for extra presentence credit, but his attorney acknowledged that he could not identify any legal error in the court’s ruling on presentence credit. The court denied the motion for extra presentence credits and explained the legal and factual basis for the denial. Contrary to Bishop’s plea form, the trial court told Bishop that he could appeal the sentence. Bishop responded, “I don’t want to appeal, Your Honor. I understand now.” Our record contains no indication that Bishop sought or obtained a certificate of probable cause, but his attorney nonetheless filed a notice of appeal.

Bishop wrote a letter to this court expressing his frustration that he did not receive all the presentence custody credits to which he claims he is entitled. But he does not set forth any reason that his waiver of the right to appeal is invalid. Because Bishop waived his right to appeal as part of a plea agreement and did not obtain a certificate of probable cause to appeal on any ground covered by the waiver, the appeal must be dismissed. (*People v. Espinoza* (2018) 22 Cal.App.5th 794, 797.)

The appeal is dismissed.

Humes, P.J.

WE CONCUR:

Margulies, J.

Banke, J.

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